

Calendar No. 826

91ST CONGRESS }
2d Session }

SENATE

{ REPORT
No. 91-819

PLACIDO VITERBO

APRIL 30, 1970.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 3955]

The Committee on the Judiciary, to which was referred the bill (H.R. 3955) for the relief of Placido Viterbo, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to waive the provision of section 212 (a) (9) of the Immigration and Nationality Act in behalf of the brother of a U.S. citizen.

STATEMENT OF FACTS

The beneficiary of the bill is a 60-year-old native and citizen of Italy, who resides in that country with his wife and four sons. He has a fifth-preference priority date of May 24, 1955, but has been unable to obtain a visa because of convictions for theft and attempted bribery. The record shows that in 1927, when 16 years of age, the beneficiary was convicted for stealing 15 cents worth of grapes, and in 1939, he was convicted for stealing plants worth \$1.04. He was fined on both occasions. The beneficiary's U.S. citizen brother is anxious to have the family enter the United States and states that he will provide for them.

A letter, with attached memorandum, dated August 9, 1968, to the chairman of the Committee on the Judiciary of the House of Representatives from the Commissioner of Immigration and Naturalization with reference to H.R. 18178, which was a similar bill pending in the 90th Congress for the relief of the same beneficiary, reads as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., August 9, 1968.

A-11522346.

Hon. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives,
Washington, D.C.*

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 18178) for the relief of Placido Viterbo, there is attached a memorandum of information concerning the beneficiary. This memorandum has been prepared from the Immigration and Naturalization Service files relating to the beneficiary by the Detroit, Mich., office of this Service, which has custody of those files.

The bill would waive the provision of the Immigration and Nationality Act which excludes from admission into the United States aliens who have been convicted of a crime involving moral turpitude, or aliens who admit having committed such a crime, or acts which constitute the essential elements thereof, and would authorize the issuance of a visa and the beneficiary's admission for permanent residence, if he is found to be otherwise admissible. The bill further provides that this exemption shall apply only to grounds for exclusion known to the Department of State or the Department of Justice prior to the date of its enactment.

Sincerely,

RAYMOND F. FARRELL,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND
NATURALIZATION FILES RE H.R. 18178

Information concerning this case was obtained from Mr. Joseph Viterbo, the brother of the beneficiary.

The beneficiary, Placido Viterbo, a native and citizen of Italy, was born on January 26, 1910. He resides in Italy with his wife and their four unmarried sons, who are also natives and citizens of Italy. The beneficiary completed the equivalent of 3 years of elementary school. He has no special skill and is self-employed as a fruit and vegetable farmer. His income is unknown. His 4-acre farm and dwelling is valued at \$20,000.

The beneficiary's parents are deceased. His four other brothers are natives, citizens, and residents of Italy.

On December 29, 1927, the beneficiary was convicted for the crimes of theft and attempted bribery by the tribunal of

Palermo, Italy. He was sentenced to imprisonment for 2 months and 3 days and fined 100 Italian lire. Execution of the sentence was suspended. He was convicted again on January 29, 1940, in the same court for the crime of theft and sentenced to imprisonment for 15 days and fined 450 lire. He was found ineligible to receive a visa at the American consulate at Palermo on July 20, 1964, because of his criminal record. The committee may desire to request the Bureau of Security and Consular Affairs, Department of State, to secure information in this connection.

The beneficiary was granted a temporary waiver of his inadmissibility and entered the United States on April 9, 1965, to visit his brother, Joseph Viterbo. The beneficiary departed from the United States on May 6, 1966, for Italy. His brother was naturalized as a U.S. citizen in 1936 and resides in Detroit, Mich., with his spouse, Mary, also a naturalized U.S. citizen. They have no children. The brother has been retired from his employment as a linoleum layer since 1960. He and his wife receive social security and union pension benefits totaling \$220 per month. They also receive \$100 monthly in mortgage payments on a house previously sold by them on a land contract basis. They own the home in which they reside and it is valued at \$20,000. They have savings of \$3,000, furniture and appliances worth \$3,000, and a 1962 automobile valued at \$500.

Mr. Joseph Viterbo filed a visa petition on May 24, 1955, to accord the beneficiary fifth preference status in the issuance of an immigrant visa. The petition was approved on July 5, 1955. The latest information indicates that a visa number is now available to him. The brother intends to find employment for the beneficiary as a construction worker if he is permitted to enter the United States for permanent residence.

The Department of State submitted the following report dated November 8, 1968, to the chairman of the Committee on the Judiciary of the House of Representatives relating to H.R. 18178, 90th Congress:

DEPARTMENT OF STATE,
Washington, D.C., November 8, 1968.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In reference to your request for a report concerning the case of Placido Viterbo, beneficiary of H.R. 18178, 90th Congress, there is enclosed a memorandum of information concerning the beneficiary. This memorandum has been submitted by the American consulate general at Palermo, Italy, in whose consular jurisdiction the beneficiary resides.

The bill would waive the beneficiary's ineligibility under section 212(a) (9) of the Immigration and Nationality Act as an alien who has been convicted of a crime involving moral turpitude, and permit the issuance of a visa and his admission into the United States if he is

otherwise admissible. The relief granted is limited to a ground for exclusion known to the Department of State and the Department of Justice prior to enactment.

Sincerely yours,

WILLIAM B. MACOMBER, Jr.,
Assistant Secretary for Congressional Relations.

SUBMITTED BY THE AMERICAN CONSULATE GENERAL
AT PALERMO, ITALY

Memorandum of Information Concerning H.R. 18178, 90th
Congress, for the relief of Placido Viterbo

Placido Viterbo was born on January 26, 1910, at Carini, Province of Palermo, Italy. He is married to Maria Caruso with whom he resides. He has five children: Vito, who was born in 1935; Andrea, who was born in 1939; Francesco, who was born in 1941; Francesca, who was born in 1943 and is married; and Rosolino, who was born on May 13, 1952. Mr. Viterbo's parents are deceased. He has a brother who resides in the United States. Mr. Viterbo is a farmer and works on his property which consists of about 2 hectares of lemon groves. He works also on 3 other hectares of land for which he pays a rent of about \$1,000 per year. He owns a four-room house where he lives with his family and has a bank account of about \$2,400. He also has \$2,000 in U.S. currency.

Mr. Viterbo is the beneficiary of an approved visa petition filed on May 24, 1955, which gives him fifth preference status under the foreign state limitation for Italy. However, his record shows that on December 29, 1927, he was sentenced by the tribunal of Palermo to 2 months and 3 days' imprisonment and 100 lire fine for theft of grapes and attempted bribery. The sentence was suspended. Although he was only 16 years of age he was convicted by an adult court since there were no juvenile courts at that time in Italy. On October 19, 1939, he was sentenced by the district judge of Carini to 25 days' imprisonment and 450 lire fine for the theft of plants worth 20 lire (about \$1.04). The court of appeals confirmed the sentence on January 29, 1940. Because of these two convictions of crimes involving moral turpitude, Mr. Viterbo is excludable from the United States under the provisions of section 212(a) (9) of the Immigration and Nationality Act. Furthermore, there is no administrative relief available for him under the present immigration law. Mr. Viterbo's wife, Mrs. Maria Caruso Viterbo, was also the beneficiary of a fifth preference visa petition filed on April 11, 1955. However, because of the death of her brother, the petitioner, no action could be taken on her application. Certified copies of Mr. Viterbo's convictions are forwarded herewith together with a synopsis of the court proceedings and translations of the pertinent sections of law.

Mr. Viterbo has recently applied for a visitor visa for the purpose of visiting his brother. His request for the required waiver of excludability under section 212(d)(3)(A) of the Immigration and Nationality Act was recommended by the consular officer to the local representative of the Immigration and Naturalization Service. No communication from that Service has as yet been received relative to the granting of the waiver.

On August 13, 1968, Mr. Viterbo underwent a medical examination at the medical section of this office. The results were negative.

An outside security investigation which was recently conducted on behalf of Mr. Viterbo revealed no additional derogatory information.

Enclosures: Court records and synopsis translations of articles of Italian Penal Code.

SYNOPSIS OF COURT PROCEEDINGS

Name: Viterbo, Placido.
 Date crime committed: 1939.
 Age crime committed: 29.
 Charges: Theft of plants worth 20 lire (about \$1.04).
 Provisions of law: 624 of the Italian Penal Code.
 Judgment: Guilty.
 Tribunal: Carini.
 Sentence: 25 days' imprisonment and 450 lire fine.
 Date of sentence: October 19, 1939.
 Appellate action: Court of Appeals, Palermo—January 29, 1940—sentence confirmed.

D. CAVARRETTA,
Translator.

SYNOPSIS OF COURT PROCEEDINGS

Name: Viterbo, Placido.
 Date crime committed: 1926. Age crime committed: 16.
 Charges: Theft of 1½ kilo of grapes worth 3 lire—attempted bribery (he attempted to bribe a public official by offering 25 lire for his release).
 Provisions of law: 402, 172, 173 of the old Italian Penal Code.
 Judgment: Guilty of both charges.
 Tribunal: Palermo—adult court—no juvenile courts at that time.
 Sentence: 2 months and 3 days' imprisonment and 100 lire fine. The sentence was suspended.
 Date of sentence: December 29, 1927.

D. CAVARETTA,
Translator.

Article 624 of the Italian Penal Code:

THEFT. Whoever takes into his own possession any movable property belonging to another, by taking it away from the person who keeps it, for reasons of profit for himself or for others, is punishable with imprisonment up to three years and with a fine from three hundred to five thousand lire.

Articles 402, 172, and 173 of the Italian Penal Code which is no longer in effect:

THEFT. Whoever takes into his own possession any movable property belonging to another for his own profit, by taking it away from the place where it is kept, without the consent of the person to whom it belongs, is punishable with imprisonment up to three years.

BRIBERY. 172—A public official who for reasons of delaying or for omitting a duty concerning his office or to act against the duties of his office, receives or requests the promise of money or other reward, for himself or for another, is punishable with imprisonment from six months to five years and deprived temporarily from holding public offices, and with a fine from one hundred lire to five thousand lire.

173—Whoever induces a public official to commit any of the crimes indicated in the preceding articles, is punishable, in the case of article 171 with a fine of fifty lire to three thousand lire, and in the case of article 172 with the penalties indicated therein. If the public official does not commit the crime, whoever has attempted to induce him to commit it, is punishable with the penalties indicated therein, reduced by one half.

Congressman Lucien N. Nedzi, the author of the bill, submitted the following letter in support of the bill to the chairman of a subcommittee of the Committee on the Judiciary of the House of Representatives, dated July 23, 1969:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 23, 1969.

Re H.R. 3955.

Hon. MICHAEL A. FEIGHAN,
*Chairman, Subcommittee No. 1, House Judiciary Committee, U.S.
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: As you know, I have introduced H.R. 3955, for the relief of Mr. Placido Viterbo.

Mr. Vertibo, age 59, born in Italy, now resides at Via Marciano N 3-Carini, Pro., Palermo, Italy. He is the beneficiary of an approved visa petition filed on May 24, 1955; however, he has been refused entry into the United States under the provisions of section 212(a)(9) of the Immigration and Nationality Act because of two convictions for crimes allegedly involving moral turpitude.

I am advised that Mr. Viterbo was convicted over 30 years ago for the alleged theft of grapes and plants. The minimal value of the article involved has led his relatives to believe that his prosecution was primarily motivated by the Mussolini government's attempt to

harass him for refusing to join the Fascist organizations of the dictator. This belief is lent additional credence by the fact that Mr. Viterbo has since maintained an unblemished reputation as a respected member of his community.

Mr. Viterbo's brother, Mr. Joseph Viterbo, of Detroit, Mich., has informed me that his own advanced age and the mental illness of his wife require the constant presence of an adult who can assist them both. Mr. Joseph Viterbo has no relatives in the United States, and is therefore hopeful that his brother will be permitted to come into the United States to care for his wife and himself.

I am convinced that it would be unjust to exclude Mr. Placido Viterbo under the circumstances, and I respectfully urge your favorable consideration at this time.

Respectfully,

LUCIEN N. NEDZI,
Member of Congress.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 3955) should be enacted.

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